

## **EXHIBIT D**

1  
2           IN THE UNITED STATES DISTRICT COURT  
3           FOR THE DISTRICT OF DELAWARE  
4           - - -  
5

6           IN RE: ADAMS GOLF, INC. :  
7           SECURITIES LITIGATION   :  
8

9           ORAL DEPOSITION

10           OF  
11           EDWARD NECARSULMER, III  
12           Monday, August 7, 2006  
13           - - -

14           Oral deposition of EDWARD NECARSULMER,  
15           III, held at the offices of SIMPSON THACHER &  
16           BARTLETT, LLP, 425 Lexington Avenue, New York,  
17           New York, commencing at 12:08 p.m., reported  
18           by Pamela Harrison, RMR, CRR, CSR and Notary  
19           Public.  
20           - - -  
21  
22

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1  
2 EDWARD NECARSULMER, III  
3  
4 MR. LEWIS: The stipulations that  
5 we have been proceeding under, as I  
6 understand it, are waiving, sealing,  
7 certification, and filing of the  
transcript, and otherwise proceeding  
under the federal rules.  
8  
9 MR. GLUCKOW: Give me those  
again.  
10  
11 MR. LEWIS: Sealing.  
12 MR. GLUCKOW: Right.  
13 MR. LEWIS: Certification.  
14 MR. GLUCKOW: Okay.  
15 MR. LEWIS: And filing.  
16 MR. GLUCKOW: Okay.  
17 MR. LEWIS: Some of which  
18 probably are already mooted by the  
latest federal rules.  
19  
20 MR. GLUCKOW: Right.  
21 MR. LEWIS: And I suppose you  
want to reserve read and sign for  
22 Mr. Necarsulmer?  
23  
24 MR. GLUCKOW: Exactly. Yes.  
THE WITNESS: Perfect.  
25  
---

1                   EDWARD NECARSULMER, III  
 2 variables. Some of the ones you've  
 3 mentioned are variables -- are valid  
 4 ones, but there are -- just the  
 5 existence of the fact that it was a  
 6 fast growing company or it was a new  
 7 company would not be enough for me to  
 8 direct the team to do something  
 9 different.

10 BY MR. LEWIS:

11           Q. What variables, if any, would  
 12 cause you to direct the team to do something  
 13 different in due diligence?

14           MR. GLUCKOW: I'm going to object  
 15 to the form and object on the ground  
 16 that it's vague and ambiguous and quite  
 17 overbroad.

18           But you can answer.

19           THE WITNESS: I mean it's a  
 20 situation-by-situation issue. I think  
 21 that -- and I can only, you know,  
 22 really respond to it anecdotally if I  
 23 can think of some appropriate  
 24 anecdotes. But I guess my point is,  
 25 without belaboring this, is you look at

1                   EDWARD NECARSULMER, III  
 2 organized in terms of your ability to get  
 3 documents and things that were on point that  
 4 would go right to your organizational outline,  
 5 where if they hadn't, you might have to really  
 6 help them set up the process.

7           Q. Would you agree that in an  
 8 initial public offering there is a strong  
 9 affirmative duty of disclosure?

10           MR. GLUCKOW: Object to the  
 11 form. Vague and ambiguous. Calls for  
 12 a legal conclusion.

13           You can answer.

14           THE WITNESS: Yes.

15 BY MR. LEWIS:

16           Q. Would you agree that in  
 17 conducting due diligence it is necessary for the  
 18 due diligence team to continue its investigation  
 19 of the issuer up to and including the effective  
 20 date of the registration statement?

21           A. Yes.

22           Q. And a due diligence  
 23 investigation would be inadequate if the  
 24 underwriter did not do that?

25           MR. GLUCKOW: Object to the

1                   EDWARD NECARSULMER, III  
 2 each situation and hopefully -- you  
 3 know, if you are managing the process,  
 4 you look at each situation and  
 5 hopefully you figure out, you know,  
 6 what you need to do to satisfy your  
 7 commitment committee, yourself, and the  
 8 marketplace. And there are really no  
 9 other rules specific -- you know,  
 10 templates I can honestly look at you  
 11 and offer beyond that.

12 BY MR. LEWIS:

13           Q. Have you ever had the experience  
 14 of adjusting the due diligence that you were  
 15 conducting on a company because the company had  
 16 management that had not had long experience in  
 17 running a public company?

18           A. Yes.

19           Q. And why did you do that?

20           A. Well, because simply as a matter  
 21 of mechanics. In many cases if a company had  
 22 done other offerings or was -- let's say had  
 23 done other offerings or had significant -- had  
 24 done private equity financings or other  
 25 transactions, typically they might be more

1                   EDWARD NECARSULMER, III  
 2 form. It calls for a legal conclusion.

3           You can answer.

4           THE WITNESS: I mean, the easy  
 5 answer is yes, but -- well, okay, let  
 6 me just leave it at yes.

7 BY MR. LEWIS:

8           Q. Is it your understanding as a  
 9 non-lawyer that one of the duties of  
 10 underwriters is to deal fairly with the  
 11 investing public?

12           MR. GLUCKOW: Object to the form.

13           You can answer.

14           THE WITNESS: Absolutely.

15 BY MR. LEWIS:

16           Q. Isn't that sometimes referred to  
 17 as the shingle theory?

18           A. I'm not familiar with that.

19           Q. I take it from your initial  
 20 report that one of your beliefs is that an  
 21 underwriter has an obligation to conduct a  
 22 reasonable investigation in an IPO?

23           A. Yes.

24           Q. And there is a long tradition  
 25 since the securities laws were enacted in the

1           EDWARD NECARSULMER, III  
2 '30s of underwriters conducting due diligence  
3 investigations?

4           MR. GLUCKOW: Object to the  
5 form. Vague and ambiguous.

6           You can answer.

7           THE WITNESS: Yes.

8 BY MR. LEWIS:

9           Q. To your knowledge, how far back  
10 in time have due diligence investigations been  
11 conducted by underwriters?

12          A. I think they were formalized by  
13 the 33 Act, but I don't go back quite that far,  
14 but it's certainly my understanding that  
15 particularly, you know, throughout history, you  
16 know, you committed your own capital to a  
17 greater extent I think than -- now things come  
18 full cycle, but in the beginning I think people  
19 did due diligence as, you know -- it's my  
20 understanding that a lot of due diligence --  
21 what due diligence was done was, in fact, you  
22 know, a matter of, you know, of self-protection  
23 as opposed to any responsibility -- as opposed  
24 to exclusively a responsibility to, you know,  
25 investors.

1           EDWARD NECARSULMER, III

2           Q. Did your work in the securities  
3 industry begin in 1967 with Hallgarten?

4           A. Correct.

5           Q. In the time that you've been in  
6 the industry, have you become aware of any  
7 changes in practical standards for due diligence  
8 investigations?

9           MR. GLUCKOW: Objection. Vague  
10 and ambiguous. Overbroad.

11           You can answer.

12 BY MR. LEWIS:

13          Q. Let me reframe the question.

14           Have you become aware of  
15 changes in practice with respect to due  
16 diligence investigations over the time since  
17 1967 that you've been employed in the  
18 industry?

19           MR. GLUCKOW: The same objection.

20           You can answer.

21           THE WITNESS: None to the basic

22           tenets of how the business or the  
23 process is done. I think one of the  
24 main changes that I've seen is that to  
25 the extent that the managing

1           EDWARD NECARSULMER, III  
2 underwriter has taken an even larger  
3 responsibility or has been delegated --  
4 I don't like the word delegated, but  
5 has been delegated a responsibility by  
6 the other comanagers to a greater  
7 extent.

8           And the other -- if I can just  
9 illuminate. The process has gotten  
10 better to the extent that investment  
11 banks began to specialize in either  
12 certain industries or had groups that  
13 did certain industries; whereas, in my  
14 life, everybody was a generalist and so  
15 that if you were doing a  
16 telecommunications deal, it would be  
17 done by the telecommunications group in  
18 Lehman Brothers or Goldman Sachs or  
19 something, who really became quite  
20 expert.

21          I know we had a significant  
22 technology practice and management  
23 would often tell me that some of the  
24 people in that group are as  
25 knowledgeable -- not as they were, of

1           EDWARD NECARSULMER, III  
2 course, but as their competitors were  
3 about the business.

4           MR. GLUCKOW: I think we've been  
5 going a little bit over an hour. If  
6 there's a point in your outline where  
7 we could take a short break.

8           MR. LEWIS: We can take it right  
9 now.

10          MR. GLUCKOW: That would be  
11 great.

12          (A recess was had from 1:18 p.m.  
13 to 1:26 p.m.; and then the proceedings  
14 continued as follows:)

15 BY MR. LEWIS:

16          Q. Mr. Necarsulmer, outside of this  
17 litigation, before you did your work in this  
18 case, did you ever hear it said that  
19 underwriters were required to act as a prudent  
20 man would in the management of his own property?

21          MR. GLUCKOW: Those words?

22          MR. LEWIS: Yes.

23          THE WITNESS: I've certainly  
24 heard of the prudent man rule, but I  
25 thought it referred to trust companies